

in §17.21(b), the rate of special tax is zero.

[T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

§ 17.76 Addition or withdrawal of partners.

(a) *General partners.* When a business formed as a partnership, subject to the filing of a special tax return, admits one or more new general partners, the new partnership shall file a new special tax return and pay a new special tax in order to be eligible to receive drawback (in the case of claims covering spirits used during the suspension period described in §17.21(b), the rate of special tax is zero). Withdrawal of general partners is covered by §17.72(d).

(b) *Limited partners.* Changes in the membership of a limited partnership requiring amendment of the certificate but not dissolution of the partnership are not changes that incur liability to additional special tax or that require the filing of a new special tax return.

[T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

§ 17.77 Reincorporation.

When a new corporation is formed to take over and conduct the business of one or more corporations that have filed a special tax return and paid any tax due, the new corporation must file a new special tax return, pay special tax, and obtain a special tax stamp in its own name. However, in the case of spirits used during the suspension period described in §17.21(b) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

[T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

CHANGE IN NAME OR STYLE

§ 17.81 General.

A person who filed a special tax return and paid any tax due is not required to file a new special tax return or pay a new special tax by reason of a mere change in the trade name or style under which the business is conducted, nor by reason of a change in management which involves no change in the proprietorship of the business.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

§ 17.82 Change in capital stock.

A new special tax return and tax payment are not required by reason of a change of name or increase in the capital stock of a corporation, if the laws of the State of incorporation provide for such changes without creating a new corporation.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

§ 17.83 Sale of stock.

A new special tax return and tax payment are not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62242, Oct. 31, 2005]

REFUND OF SPECIAL TAX

§ 17.91 Absence of liability, refund of special tax.

The special tax paid may be refunded if it is established that the taxpayer did not file a claim for drawback for the period covered by the special tax stamp. If a claim for drawback is filed, the special tax may be refunded if no drawback is paid or allowed for the period covered by the stamp.

§ 17.92 Filing of refund claim.

Claim for refund of special tax must be filed on TTB Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes. The claim must set forth in detail sufficient reasons and supporting facts of the exact basis of the claim. The special tax stamp shall be attached to the claim.

(68A Stat. 791 (26 U.S.C. 6402))

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF-436, 66 FR 5471, Jan. 19, 2001]

§ 17.93 Time limit for filing refund claim.

A claim for refund of special tax shall not be allowed unless filed within three years after the payment of the tax.

(68A Stat. 808 (26 U.S.C. 6511))